

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

GREGORY BRYANT

CRIMINAL ACTION NO.
1:13-CR-467-TWT-RGV-1

DEFENDANT’S SENTENCING MEMORANDUM

COMES NOW, the Defendant, GREGORY BRYANT, and requests this Court to consider varying below the guidelines when imposing his sentence, showing the Court the following:

I. PROCEDURAL HISTORY:

Mr. Bryant pled guilty on February 25, 2014, to the possession of a firearm by a convicted felon in violation of 18 U.S.C. § 922(g)(1). The firearm was found in Mr. Bryant’s home on January 25, 2012, while the FBI was executing a search warrant for evidence of fraudulent activity. Mr. Bryant is scheduled to be sentenced by this Court on July 31, 2014.

The Presentence Report has a Total Offense Level of 15 and a Criminal History Category III: for a custody guideline range of 24 to 30 months. PSR, ¶ 17. In accordance with the plea agreement, it is anticipated the government will move for a one level downward variance based upon Mr. Bryant’s expeditious plea of guilty.

If the government's motion is granted the custody guideline range would be 21 to 27 months.

II. AN OFFENSE LEVEL OF 15 OVER-REPRESENTS THE SERIOUSNESS OF MR. BRYANT'S CONDUCT.

Mr. Bryant's offense level was increased by four levels for possessing the firearm in connection with another felony offense, pursuant to U.S.S.G. § 2K2.1(b)(6)(A). PSR, ¶ 18. Mr. Bryant had recently purchased the firearm after moving into a new home, after he discovered there were frequently residential burglaries in his neighborhood. He purchased the gun for his own protection, not for use in check fraud. PSR, ¶¶ 11 and 13. If he did not receive this four level specific offense characteristic, and without the variance recommended by the government, Mr. Bryant's guideline range would be 12 to 18 months in Zone C. While the four level specific offense characteristic technically applies, Mr. Bryant submits the presence of the firearm in his bedroom nightstand does not pose the same risk of harm that for instance, a gun possessed during a drug offense or a robbery would pose. There is no gradation of the four levels to better reflect the seriousness of the risk posed by the presence of the firearm.

III. CRIMINAL HISTORY CATEGORY III OVER-REPRESENTS THE SERIOUSNESS OF MR. BRYANT'S CRIMINAL HISTORY.

Mr. Bryant's criminal history score is 6. PSR, ¶ 35. However, his last

conviction was in 1997 when he was 24 years old. PSR, ¶ 34. He also received an additional three points for a 1994 conviction he was sentenced to probation on, but the probation was revoked in 1996 and he was not released until November 27, 1997. PSR, ¶ 30. That revocation puts the 1994 conviction within the 15 year window by 10 months. His probation was revoked because he failed to notify his supervising officer of his change of address and failed to submit monthly reports. PSR, ¶ 30. If Mr. Bryant's Criminal History Category was a II rather than a III his sentencing guideline range with the Adjusted Offense Level of 15 would be 21 to 27 months imprisonment.

Dated: This 29th day of July, 2014.

Respectfully Submitted,

/s/ Stephanie Kearns

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Defendant's Sentencing Memorandum has been formatted in Times New Roman 14 pt., in accordance with Local Rule 5.1B, and was electronically filed this day with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following counsel of record:

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Dated: This 29th day of July, 2014.

/s/ Stephanie Kearns
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